

The Hon. Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN BALCH,

Defendant.

NO. CR23-122-RSM

**PRELIMINARY ORDER OF
FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Kevin Balch's interest in the following property ("Subject Property"):

1. A black Google Pixel 4a with IMEI: 358119101457048; and
2. A white Google Pixel XL with IMEI: 352530087952727.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- The Subject Property is forfeitable pursuant to 18 U.S.C. §2253(a) because it constitutes property used to commit or facilitate the Defendant's commission of *Possession of Child Pornography*, in violation of 18 U.S.C.

§§ 2252(a)(4)(B) and (b)(2), or is property constituting or derived from proceeds of those offenses, or consists of prohibited data files; and,

- Pursuant to the Plea Agreement he entered on August 12, 2024, the Defendant agreed to forfeit his interest in the Subject Property, pursuant to 18 U.S.C. § 2253(a). Dkt. No. 20, ¶ 13.

NOW, THEREFORE, THE COURT ORDERS:

1. Pursuant to 18 U.S.C. § 2253(a), and his Plea Agreement, Defendant Balch's interest in the Subject Property is fully and finally forfeited, in its entirety, to the United States;

2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be final as to the Defendant at the time he is sentenced, it will be made part of the sentence, and it will be included in the judgment;

3. The United States Department of Justice, Department of Homeland Security, and/or its authorized agents or representatives ("ICE"), shall maintain the property in their custody and control until further order of this Court. ICE shall destroy any prohibited images unless they have been destroyed already or will be retained for official, investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and its intent to dispose of the Subject Property as permitted by governing law. The notice shall be posted on an official government website—currently, www.forfeiture.gov—for at least thirty (30) days. For any person known to have alleged an interest in the property, the United States shall also, to the extent possible, provide direct written notice to that person. The notice shall state that any person, other than the Defendant, who has or claims a legal interest in the property must file a petition with the Court within sixty (60) days of the first day of publication of the notice (which is thirty (30) days from the last day of publication), or

1 within thirty (30) days of receipt of direct written notice, whichever is earlier. The notice
2 shall advise all interested persons that the petition:

- 3 a. shall be for a hearing to adjudicate the validity of the petitioner's
- 4 alleged interest in the property;
- 5 b. shall be signed by the petitioner under penalty of perjury; and
- 6 c. shall set forth the nature and extent of the petitioner's right, title, or
- 7 interest in the property, as well as any facts supporting the
- 8 petitioner's claim and the specific relief sought.

9 5. If no third-party petition is filed within the allowable time period, the
10 United States shall have clear title to the Subject Property, and this Preliminary Order
11 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

12 6. If a third-party petition is filed, upon a showing that discovery is necessary
13 to resolve factual issues it presents, discovery may be conducted in accordance with the
14 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
15 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
16 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
17 adjudication; and

18 7. The Court will retain jurisdiction for the purpose of enforcing this
19 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
20 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
21 Fed. R. Crim. P. 32.2(e).

22 IT IS SO ORDERED.

23
24 DATED this 8th day of November, 2024.

25 

26 RICARDO S. MARTINEZ
27 UNITED STATES DISTRICT JUDGE

1 Presented by:

2
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